



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/049,992	10/07/2002	Andre Beaulieu	BEAU 4 US	2610

44702 7590 09/21/2005

OSTRAGER CHONG FLAHERTY & BROITMAN PC
250 PARK AVENUE, SUITE 825
NEW YORK, NY 10177

EXAMINER

KIM, VICKIE Y

ART UNIT	PAPER NUMBER
----------	--------------

1618

DATE MAILED: 09/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/049,992

Applicant(s)

BEAULIEU ET AL.

Examiner

Vickie Kim

Art Unit

1618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 25-46 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 25-46 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

300

Status of application

Acknowledgement is made of amendment filed Dec. 09, 2004. (Preliminary amendment firstly filed Feb 19, 2002). Since first non-final office action mailed June 7, 2004 is prepared by the original claims filed 10/7/02, but failed to consider the preliminary amendment filed before the first non-final office action, the said non-final office action is withdrawn hereinwith. However, restriction is necessary because there is a lack of unit existing between the patentably distinct inventions of groups I-IV.

PCT-national stage

1. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 25-38, drawn to a solid wound healing formulation comprising fibronectin.

Group II, claim(s) 39-42, drawn to a method of treating a wound using a formulation of group I.

Group III, claim(s) 43 and 45, drawn to a method of producing a wound healing promoter delivery system comprising the steps as recited in claim 43, wherein the steps including a concentration of fibronectin and a solution of an anionic polysaccharide.

Art Unit: 1618

Group IV, claim(s), 44 and 46, drawn to a method of producing a solid wound healing promoter delivery system comprising the steps as recited in claim 44, wherein the steps including a concentration of fibronectin and a solution of an alginate salt and a glacial acetic acid.

Lack of Unity(PCT-Restriction)

1. the special technical feature which is referred to Annex B of Appendix A1 of the MPEP(Administrative Instructions under the PCT, "Unity of Invention"). Unity exists only when there is a technical relationship among the claimed inventions involving one or more of the same or corresponding claimed technical features. The express "special technical features" is defined as meaning those technical features that define a contribution which each of the inventions, considered as a whole, makes over the prior art."(Rule 13.2). In this case, the technical feature is fibronectin. The question of unity of invention has been reconsidered retroactively by the examiner in view of the search performed; a review of US 5641483(Beaulieu) or US4973466 (Reich) makes clear that the claimed species(i.e. fibronectin) is not novel over the prior art (the instantly claimed compounds). Furthermore, these references appear to demonstrate that the claimed technical feature does not define a contribution which each of the inventions, considered as a whole, makes over the prior art. Accordingly, the prior art of the record supports restriction of the claimed subject matter in to the groups as mentioned immediately above.

Conclusion

1. No claim is allowed.

Art Unit: 1618

2. All pending claims are subject to restriction/election requirement.
3. It is noted that the restriction requirement is necessitated by amendment filed Sep. 8, 2004. 37 CFR 1.142(a), second sentence states: " if the distinctness and independence of the invention is clear, such requirement will be made before any action upon the merits however, it may be made at any time before final action in the case at the discretion of the examiner.". Thus, the instant restriction requirement is considered to be proper in timely manner.
4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vickie Kim whose telephone number is 571-272-0579. The examiner can normally be reached on Tuesday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman Page be reached on 571-272-0602. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Application/Control Number: 10/049,992

Art Unit: 1618

Page 5

VICKIE KIM
PRIMARY EXAMINER

Vickie Kim

September 19, 2005

Art unit 1618

